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ABSTRACT

A recent case at a state university sought to challenge the notion that Directors of Forensics are empowered to make decisions that will govern tournament entries. A student who had been doing extremely well in forensics, but was causing some difficulties in the program was admonished for her behavior. The student's debate tournament participation was curtailed, with specific guidelines indicating how further participation would be possible. The dean of the college of arts and humanities, as well as the president of the university, supported the decision. The student filed a complaint of sex discrimination with the United States Department of Education Office of Civil Rights (OCR). The director of forensics gathered requested information and formulated a response to the complaint. A month later, the OCR determined that evidence failed to substantiate the allegation of sex discrimination. Implications of this case are: (1) the nature of the investigation implies that any disgruntled student can make charges against programs with or without merit; (2) the investigative procedures imply compliance as a means of assessing the validity of the charges; (3) the breadth and depth of information requested implies that forensics programs should maintain historical files of student participation dating back three years; (4) directors of forensics should be conscious of the gender balance of students selected for tournament participation; and (5) directors of forensics should be able to clearly defend their selection procedures. Directors of forensics should be forewarned and clearly articulate and document their methods to justify their actions. (RS)

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EVALUATING PROGRAM ADMINISTRATION

LOOKING OUT LOOKING IN: AN EVALUATION OF SELECTION PROCEDURES

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A paper presented at the Seventy-Ninth Annual Meeting of the Speech Communication Association Convention held in Miami, Florida November 18-21, 1993 by Bryant K. Alexander, Director of Forensics at Moorhead State University in Moorhead, Minnesota

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EVALUATING PROGRAM ADMINISTRATION: LOOKING OUT LOOKING IN AN EVALUATION OF SELECTION PROCEDURES

The forensic activity has long been sensitive to evaluation or in administrative terms "assessment procedures. " We have been sensitive to the point that we periodically evaluate ourselves thereby validating new policies and procedures, as well as procedures which seek to maintain the ethical nature of rhetoric and reinforce the educational / co-curricular nature of the activity. In "Perspectives on Individual Events: Proceedings of the First Developmental Conference on Individual Events" (1989) we find a host of discussions and papers which address evaluation from the Standards of Evaluating /Judging , Ethical Questions For Coaches/Competitors, to establishing A Rationale for Events To Be Included in I.E. Competition, and in separate conferences and publications we also see a rash of papers on evaluating the use of questions in individual events rounds (Levasseur & Dean, 1989; Schnoor & Green, 1990; Sellnow & Hanson, 1990; Kanter, 1990; Schnoor & Alexander, 1991).

So the question of whether or not we should be evaluating procedures used to select students who attend tournaments is a question that we should not be surprised to hear. But, what might surprise us is that the question has already been answered for us. We need to be aware of that response and how it applies to us. The following paper will endeavor to outline an actual situation where selection procedures have been questioned, offer some implications of the event and draw some conclusions.

Social and public forces such as the Equal Opportunity Employment -Affirmative Action Offices (E0E-AAO) along with state and national branches of the federal government and the U.S. Department of Education have set standards that most definitely apply to the forensics activity as it fits in a broader educational context. Namely policies and procedures that define affirmative action laws, and equal access and participation are applicable to the nature of the educational activity in which we are involved. Statements such as the one adopted by the State of Minnesota serve as a standard for many: "No individual should be discriminated against because of race, religion, color, creed, veterans status, national origin, sex, sexual orientation/affection preference, age, marital status, disability, status due to receipt of public assistance, or any other group or class against which discrimination is prohibited" (MSUS, 1986). This is in accordance with our local student activity committees who put forth policies and statements of similar wording.

Many programs around the nation use a variety of methods to establish membership on their speech team and more specifically to select those students who will travel to a particular tournament. For some that method is formally based upon auditions; for others it may be loosely based on the notion that students who practice, or even the student who has the most potential to win, will be selected to travel. It is also accepted that the student who possesses a cooperative spirit and a sociable demeanor may also be chosen above one who doesn't. In either case, the notion seems to be universally accepted that Directors of Forensics are empowered to make decisions that will govern tournament entries. Yet a recent case at a State University sought to challenge this particular notion and thus the nature of the activity as we know it.

CASE STUDY:

During the Winter quarter of the 1991-92 forensic season, a student who had been doing extremely well in forensics, but was causing some difficulties in the program (in the form of questioning and challenging authority, as well as threatening fellow team members) was admonished for the behavior. In conjunction with the department chair, a former director of forensics, the student's participation was curtailed, with specific guidelines indicating how further participation would be possible. The student was not allowed to attend the district tournament, but participation at the American Forensic Association National Individual Events Tournament , for which multiple qualifications had been achieved, was not denied. As a result of the action the student appealed to the dean of the College of Arts & Humanities. The dean, who had been kept abreast of the ongoing behaviors, supported the decision of the Directors of Forensics. The student then appealed to the president of the university, who was also knowledgable of the situation, and support was continued.

Charge: After a series of other reports and unsuccessfully-defended accusations about the program directed to campus and student organizations, the student in question filed a complaint with the United States Department of Education Office of Civil Rights (OCR) Region IV- Chicago, Illinois. In a letter addressed to the dean, the organization states: "...a complaint of sex discrimination has been filed against the university with this office. The complaint alleges that qualified female Forensics Team members were not selected to participate in a 1992 district qualifier tournament." The letter goes on to mention that "OCR is responsible for enforcing, among other civil right statues, Title IX of the Education Amendment of 1972, 20 U.S.C. 1681 et seq., and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the

basis of sex in programs and activities receiving Federal financial assistance from the U.S Department of Education. OCR has determined that the University is a recipient of federal financial assistance from the Department of Education and that OCR has jurisdiction to investigate the allegation in this complaint ."

The document then goes on to suggest that in order for OCR to conduct a prompt investigation, it is essential that the information needed to solve the complaint be provided as soon as possible. Accordingly, within 10 days of receipt of the request:

1. A statement of the university's policies and procedures governing the screening and selection of team members chosen to participate in the March 1992 district qualifier tournament. Please include: a. what factors were considered.
   b. what weight was given each factor.
   c. how the final selection was decided.
2. A list of all team members eligible for selection to participate in district qualifier tournaments during the academic years 1990, 1991 and 1992. Please include the following information: a. name or other identifier.
   b. sex
   c. rationale for selection or rejection
   d. for those selected, identify the category or event in which the student participated.
   e. identify and explain why certain categories or events, if any, were left unslotted.
3. A list of all individuals, identified by sex, and any committees that assumed a major role in decisions pertaining to the 1992 selection of a participants for the tournament.

4. A narrative response to the complaint allegation.

Response: In response to the previously stated charge the directors of forensics gathered the requested information and formulated a response and directed the materials to the appropriate officials. The materials were accompanied by letters of support from the department chair and the dean.

After receiving the requested information the Office for Civil Rights (OCR) requested interviews with all parties involved in making tournament selection decisions. In this case the list included the directors of forensics and the department chair. The first interviews were conducted separately via conference calls. When interviewed, all parties requested the presence of a faculty union representative-- in this case the faculty union president and the affirmative action officer. The director of forensics was interviewed on two separate occasions in order to clarify details, policies and procedures.

Decision/ Verdict: A month later the following statement was issued:

> OCR determined that the evidence failed to substantiate that discrimination against female forensics team members on the basis of sex by not selecting them for participation in the district tournament. OCR therefore concluded that the university is in compliance with Title IX with respect to the issue raised in this complaint... OCR found that the directors relied on their assessments of a student's individual abilities, quality of previous performance, and level of preparation as well as a student's ability to interact in a cooperative manner with coaches and team members in selecting students for the district tournaments. Although the directors' decisions were to a considerable degree based on subjective judgment, OCR did not find that the directors used prohibited factors such as a student's gender in their selection decision for this tournament. OCR found evidence did not support the allegation that less-qualified male students were selected over more-qualified female students for the district tournament, in violation of the Title IX Regulation.

Implications: "In this age of increasing litigation, educators, professionals and others are being held accountable for the manner in which they discharge the responsibilities of their position. " So begins an article written by Sharon Porter and Martin D. Sommerness entitled "Legal Issues Confronting the Director of Forensics" (1991). Though the article specifically deals with legal issues and concerns related to traveling and accidents, it calls our attention to the fact that the forensic activity is certainly not immune to ligation whether due to accidents, negligence, policy or procedure.

Although the outcome of the case related to selection procedures seem to be positive, the implications for the activity are considerable.

1. The nature of the investigation implies that any disgruntled student can make charges against programs with or without merit. Because of the nature of the system in which we operate, the charges must and will be investigated if filed with a national/ regional Office of Civil Rights or the Department of Human Rights in any individual state. Claims may be filed at either or both agencies thereby initiating separate investigatory procedures.

Title IX of the Education Amendment of 1972 prohibits discrimination on the basis of sex in programs and activities receiving Federal financial assistance from the U.S. Department of Education, which includes most 2-4 year degree granting institutions of higher education. The policies and procedures of the Office of Civil Rights mandate an investigation. If found guilty a number of possible outcomes are in order:

a. verbal reprimanding and censure.

b. a fine may be issued to the offending organization and institution.

c. revocation of funding to the offending organization/ club/ activity or in an extreme case the educational institution.

d. suspension of the offending program.

2. The investigative procedures used by OCR imply compliance as a means of assessing the validity of the charges-- regardless of the lack of apparent grounds. In this case a complaint equals suspect. Compliance entails access to all and any documents by the responsible Department official or his/her designee.

3. The breadth and depth of information requested in this investigation implies that forensics programs should maintain historical files of student participation in the program dating back at least 3 years. Specific selection procedures and justifications which were used in choosing students to attend those tournaments should be noted. Specialty tournaments such as State and District tournaments seem to be particularly susceptible to question, because students are particularly attracted to them and governing bodies do not set entry criteria (i.e qualification for competition), thereby allowing directors to formulate their own entries based on previously established criteria.

4. The specific request for information relevant to the sex of competitors chosen implies that as Directors of Forensic we should be conscious of the gender balance of students whom we are selecting to travel, or at least make sure that there is no inequity in terms of the criteria that we set for competition.

5. The intense investigation, inclusive of paperwork and personal interviews, implies that directors of forensics should be able to clearly defend their selection procedures not only to themselves and to their students, but possibly in a public forum.

Conclusions: One of the saving graces of the investigative procedure was the fact that the Directors of Forensics were notorious pack rats thereby keeping years of back records for the program and students who had competed. The records, replete with tournament entries, results and expenditure forms, served to fulfill all the compliance requirements. The records revealed that though more males than females (5 to 4) were selected for the 1992 district tournament, roughly twice as many females as males were selected for both the 1990 and 1991 district tournament and that females

had had a dominant presence in the program throughout the years and had served in mostly all of the team leadership positions. The records coupled with a Forensics Handbook which is a standard issue to the forensic team members was in place. The booklet included policies, operating procedures, guidelines, expectations and other administrative information regarding the program and was presented to all students at the beginning of the school year. This served as a justification of intent.

The case outlined in this paper should cause us some alarm and should force us to clearly articulate and document our methods to justify our actions. According to the Porter and Sommerness article "most forensics educators do not normally enter the coaching field apprehensive of the potential legal liability... in fact few coaches, whether beginning in the field or seasoned veterans, consider the issue of legal liability at all." But we certainly cannot close our eyes to the possibility. In echoing the closing sentiments of the same article applied to this discussion, I hope the above outlined incident is an isolated case. Hopefully most forensics coaches will never be confronted with this issue. Taking precautionary and prudent measures by: (1) clearly articulating selection policies and procedures to your students and direct administrators, (2) maintaining tournament results and participation records, (3) assuring that equal access, participation and opportunity is offered to all students; may lead to the successful defense in such a case.

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